

COMPETITION AND CONSUMER ACT 2010

Undertaking to the Australian Competition and Consumer Commission given for the purposes of section 87B

by

Careers Australia Group Limited

ACN 122 171 840

Persons giving this undertaking

- (1) This Undertaking is given to the Australian Competition and Consumer Commission (**ACCC**) by Careers Australia Group Limited (**Careers Australia**) of 123 Gotha Street, Fortitude Valley, QLD, 4006 for the purposes of section 87B of the *Competition and Consumer Act 2010* (**the Act**).

Background

- (2) Careers Australia is a Registered Training Organisation (**RTO**) with the Australian Skills Quality Authority (**ASQA**) (RTO 22479). It is incorporated pursuant to the *Corporations Act 2001* (Cth) and is registered in Queensland.
- (3) Careers Australia carries on business, in trade or commerce, marketing and supplying vocational education and training (**VET**) courses to consumers. Since 2009, it has provided VET FEE-HELP accredited diploma courses, including in management, business, nursing and project management (**Careers Australia courses**).
- (4) An eligible student who enrolled in one or more Careers Australia courses, each of which consisted of several units of study, was entitled to a Commonwealth student loan called VET FEE-HELP for each of those units of study (**the VET-FEE HELP Assistance Scheme**). VET FEE HELP was not paid by the Commonwealth to the student but was paid directly to Careers Australia in discharge of the student's liability to pay the course fees.
- (5) Careers Australia was required to identify a date (census date) for each unit of study after which a student entitled to VET FEE-HELP incurred a debt to the Commonwealth for each unit of study in which he or she enrolled. The student became liable to pay the debt when his or her income exceeded the minimum income threshold (which in the financial year 1 July 2014 to 30 June 2015 was \$53,345) even if the student did not complete the course in which he or she was enrolled.
- (6) Careers Australia used third party marketing agents (**marketing agents**) to market and promote their courses to potential students.
- (7) The marketing agents used a variety of methods to sell Careers Australia courses. These methods included:

- (a) offering laptops or iPads to students as incentives to enrol in the course and telling them that they were free;
 - (b) telling students the course was free; and
 - (c) by way of obtaining potential students' details from on-line job applications for which the potential students had been unsuccessful.
- (8) Some of the marketing agents also appeared to target disadvantaged and vulnerable consumers, including jobseekers, high school students, Aboriginal consumers in rural areas and those with low levels of literacy and numeracy skills.
- (9) The marketing agents sold Careers Australia courses by:
 - (a) making telephone calls to consumers; and
 - (b) approaching consumers at their homes.
- (10) In the period from 1 August 2013 to 31 March 2015 (**the relevant period**), largely through the activities of its marketing agents, Careers Australia received and processed applications from approximately 39,835 students for enrolments in Careers Australia courses under the Commonwealth's VET FEE-HELP Assistance Scheme. Of these students, 20,242 students were enrolled and incurred a debt to the Commonwealth for the units of study in which they were enrolled. Of these students, Careers Australia has since cancelled 12,130 student enrolments and repaid or partially repaid to the Commonwealth amounts totalling \$44.3 million in relation to those cancellations.
- (11) In relation to those students enrolled in the relevant period, as at the date of this Undertaking, 3,332 Careers Australia courses have been completed by those students and there are 3,724 students who are still undertaking the Careers Australia courses in which are they are enrolled.
- (12) Assuming the relevant census dates were passed for each of those student enrolments in the relevant period, the total amount of debt owed by students as a result of being enrolled in and having completed Careers Australia courses under the Commonwealth's VET FEE-HELP Assistance Scheme in the relevant period would have been at least \$300 million.
- (13) Careers Australia has received payments from the Commonwealth in relation to those students enrolled during the relevant period totalling approximately \$190 million.
- (14) Over the relevant period, Careers Australia made a net profit after income tax of \$28.5 million.

Relevant conduct

- (15) The ACCC is concerned that in the course of marketing Careers Australia courses, and recruiting consumers to enrol in such courses, some of the marketing agents made false or misleading representations to consumers, including vulnerable and disadvantaged consumers, in order to encourage them to enrol, including representations to the effect that:
- (a) the courses were free, or free unless the consumer's income was of an amount which they were unlikely to earn on completion of a course, or at all;
 - (b) the courses were wholly government funded or paid for by the government;
 - (c) the consumer would incur a particular cost for the course that was inaccurate;
 - (d) the cost of the course was covered by the consumer's existing tax payments when this was not the case;
 - (e) the courses would allow the consumer to find employment or increase the probability of them finding employment when this was not the case; and
 - (f) the consumer would receive assistance to find employment after enrolling in the courses when this may not have been the case.
- (16) In some instances, over the relevant period, the marketing agents:
- (a) entered into negotiations with consumers relating to the supply or possible supply of Careers Australia courses, either by telephone or by approaching them at their homes, in circumstances where the consumer did not invite the marketing agent to make the telephone call or to visit their home for that purpose;
 - (b) failed to advise consumers of the purpose of their telephone call or visit, or that they were required to leave the premises immediately if requested; and
 - (c) offered inducements, including free iPads or laptops, to consumers, who provided their identification and personal information, to sign up to the Careers Australia courses.
- (17) Four specific instances of concern to the ACCC regarding the representations made by the marketing agents to consumers, or the conduct engaged in by them, are as follows:
- (a) Following a complaint from the Indigenous Consumer Action Network (ICAN), a Careers Australia audit identified 80 students signed up in Yarrabah, Queensland, an Aboriginal Community situated approximately 50 kilometres from Cairns. The audit found that the students enrolled were all falsely informed by the relevant

marketing agent and their commitments to the course and their exposure to a future debt were not explained.

- (b) Consumer A, a 68 year old indigenous woman, is an example of a consumer from Yarrabah who was enrolled in a Careers Australia course. Consumer A did not attain a school certificate and is not computer literate. She is on the Aged Pension. She was induced to enrol in a Careers Australia course by two marketing agents who approached her at her home and represented to her that the course was free and funded by the government, and that she would receive a free laptop after she enrolled. Consumer A did not receive a copy of the agreement and she was not informed by the marketing agents of her right to terminate the agreement within a termination period.
 - (c) Consumer B is a 59 year old man who is unemployed and lives at his parents' home in Armidale, New South Wales. Consumer B was applying for jobs online and he subsequently received a telephone call from a marketing agent. He was encouraged to enrol in a Careers Australia course that was not suitable for his needs after the marketing agent represented to him that he would receive immediate job assistance after enrolling in the course. Consumer B did not receive any job assistance.
 - (d) Consumer C is a 48 year old woman who lives in Orange, New South Wales. Consumer C was applying for jobs online and subsequently received an email from a marketing agent. The email advertised Careers Australia courses and represented that these courses were free. Consumer C responded to the email and subsequently received a telephone call from a marketing agent. She was induced to enrol in two Careers Australia courses after the marketing agent represented to her that the courses were funded by the government and any cost was covered by her existing tax payments. The marketing agent also represented to her that she would receive a free iPad to complete the course. Consumer C was not informed by the marketing agent of her right to terminate the agreement within a termination period.
- (18) Careers Australia subsequently cancelled the enrolment of all their students enrolled from Yarrabah, together with Consumer B and Consumer C, and cancelled their VET FEE-HELP debts and either repaid or re-credited any amounts owing to the Commonwealth.
- (19) The ACCC considers that by engaging in the conduct and making the representations at paragraphs (15) to (17) above, the marketing agents, on behalf of Careers Australia, have:

- (a) pressured disadvantaged and vulnerable consumers into enrolling in Careers Australia courses that were not suitable for their education levels and personal backgrounds;
 - (b) failed to:
 - (i) adequately explain to consumers:
 - A. the VET FEE-HELP Assistance Scheme;
 - B. the nature of their obligations if they received VET FEE-HELP assistance; or
 - C. that they would have a debt to the Commonwealth after the census date for each unit of the course they were enrolled in;
 - (ii) provide to consumers copies of the agreements they signed and information in writing or by telephone that they had the right to terminate the agreement within a termination period and the manner in which they could exercise that right.
- (20) Careers Australia has worked cooperatively with the ACCC to resolve its concerns, including by providing this Undertaking. Careers Australia also took a range of remedial steps prior to ACCC intervention, including voluntarily repaying or re-crediting VET FEE-HELP amounts owing to the Commonwealth for a number of students, ceasing to use the relevant marketing agents and improving policies and procedures.

Contraventions

- (21) The ACCC considers, and Careers Australia admits, that by some of the marketing agents making the representations, and engaging in the conduct, described in paragraphs (15) to (17) above, Careers Australia, through the representations and conduct of their marketing agents:
- (a) engaged in conduct that was misleading or deceptive, or likely to mislead or deceive in contravention of section 18 of the ACL;
 - (b) engaged in conduct that was, in all the circumstances, unconscionable within the meaning of section 21 of the ACL;
 - (c) made false or misleading representations in contravention of sections 29(1)(g) and 29(1)(i) of the ACL;

- (d) engaged in conduct that was liable to mislead consumers as to the nature, the characteristics or the suitability for their purpose of the service provided by Careers Australia in contravention of section 34 of the ACL;
- (e) contravened sections 74(a) and 74(b) by failing to disclose as soon as practicable and before starting to negotiate with consumers that:
 - (i) their purpose was to seek the consumers' agreement to the supply of the Careers Australia courses; and
 - (ii) they were obliged to leave the consumers' premises or end the telephone call immediately on request;
- (f) contravened section 76 of the ACL by failing to provide consumers with information in writing or by telephone concerning their right to terminate the enrolment agreement and the manner in which they could exercise that right; and
- (g) contravened section 78 of the ACL by failing to give consumers a copy of their enrolment agreement immediately after they signed the agreement, where the agreement was not negotiated by telephone.

Commencement of undertaking

(22) This Undertaking comes into effect when:

- (a) the Undertaking is executed by Careers Australia; and
- (b) the ACCC accepts the Undertaking so executed.

(23) Upon the commencement of this Undertaking, Careers Australia undertakes to assume the obligations set out in paragraphs (24) to (33) below.

Undertakings

Future representations

(24) Careers Australia undertakes that, for a period of five years, commencing on the date of this Undertaking coming into effect, it will not, whether by itself, its officers, employees, contractors, representatives or agents, in trade or commerce, in connection with the promotion, supply or possible supply of Careers Australia courses, make any representation, whether express or implied, to consumers to the following effect:

- (a) that the courses are free, or free unless the consumer's income is of an amount which they are unlikely to earn on completion of a course, or at all, when that is not the case;

- (b) that the courses are wholly government funded or paid for by the government, when that is not the case;
 - (c) that the courses cost an amount that is lower than the actual amount or an amount that is inaccurate;
 - (d) that the cost of the courses are covered by the consumer's existing tax payments, when that is not the case;
 - (e) that completing a course will guarantee that the consumer finds a particular type of employment or increase the probability of them finding employment by a particular amount, in circumstances where these matters cannot be reasonably predicted; and
 - (f) that the consumer would receive assistance to find employment after enrolling in the courses, when that is not the case.
- (25) Further, Careers Australia undertakes that for a period of five years commencing on the date of this Undertaking coming into effect, it will not, whether by itself, its officers, employees, contractors, representatives or agents enrol a student in a Careers Australia VET FEE-HELP course without disclosing to the consumer, by telephone and subsequently in writing, or in writing if the discussion occurs in person, the following information for the consumer to retain:
- (a) the cost of the course;
 - (b) the process by which the consumer is able to cancel enrolment in a course, including any date by which the consumer is able to cancel from a course without penalty;
 - (c) the details of any debt the consumer may incur on enrolling in the course including:
 - (i) the total amount of such debt;
 - (ii) whether the debt will be owed to the Commonwealth or to another person;
 - (iii) the circumstances under which the debt is to be repaid;
 - (iv) if applicable, the income threshold at which the loan debt will become repayable and the rate of repayment that will apply.

Consumer Redress Program

- (26) Careers Australia undertakes, in respect of each consumer:
- (a) who enrolled in a Careers Australia course between 1 August 2013 and 31 March 2015;

- (b) who incurred a debt to the Commonwealth under the VET FEE-HELP Assistance Scheme in respect of enrolment in a Careers Australia course and has not to date had the full amount of that debt cancelled; and
- (c) as at 1 October 2015, has not completed any unit in the course in which they were enrolled and does not inform Careers Australia in writing within 4 months of the date of this Undertaking that they wish to remain enrolled in the course:

that it will:

- (d) within 5 months of this Undertaking coming into effect:
 - (i) cancel the consumer's enrolment and notify the DET accordingly;
 - (ii) be liable to and will repay to the Commonwealth any amount paid by the Commonwealth to Careers Australia to date in purported discharge of the consumer's VET FEE-HELP debt in respect of that course (where not already repaid by Careers Australia); and
 - (iii) expunge from the consumer's academic record any reference to the consumer's enrolment in the course;
 - (e) not make any claim for payment from the Commonwealth that may otherwise be made in relation to that enrolment.
- (27) Careers Australia anticipates that approximately \$4.89 million will need to be repaid to the Commonwealth pursuant to paragraph 26(d)(ii) above as at 1 May 2016.
- (28) Careers Australia also undertakes, in respect of each consumer:
- (a) who enrolled in a Careers Australia course between 1 August 2013 and 31 March 2015;
 - (b) who incurred a debt to the Commonwealth under the VET FEE-HELP Assistance Scheme in respect of enrolment in a Careers Australia course and has not to date had the full amount of that debt cancelled; and
 - (c) notifies Careers Australia in writing, within 4 months of the date of the Undertaking, that they wish to have their enrolment cancelled, on the basis that:
 - (i) they received false or misleading information from a marketing agent or Careers Australia and enrolled in the course on that basis, and can provide information to Careers Australia in support of that claim; or

- (ii) the unsolicited consumer agreement provisions of the ACL were not satisfied by a marketing agent or Careers Australia, and they can provide information to Careers Australia in support of that claim;

that it will:

- (d) within 5 months of this Undertaking coming into effect, acting reasonably and in good faith assess notifications made to it under sub-paragraphs 28(c)(i) and 28(c)(ii), including any information provided;

and, if the information provided supports the claim that the consumer was enrolled in any of the circumstances set out in sub-paragraphs 28(c)(i) or 28(c)(ii) above, that it will:

- (e) within 5 months of this Undertaking coming into effect:
 - (i) cancel the consumer's enrolment and notify the DET accordingly;
 - (ii) be liable to and will repay to the Commonwealth any amount paid by the Commonwealth to Careers Australia to date in purported discharge of the consumer's VET FEE-HELP debt in respect of that course (where not already repaid by Careers Australia); and
 - (iii) if requested, expunge from the consumer's academic record any reference to the consumer's enrolment in the course;
- (f) not make any claim for payment from the Commonwealth that may otherwise be made in relation to that enrolment.

(29) Careers Australia further undertakes that it will within 6 months of this Undertaking coming into effect, conduct an internal review of all complaints received from 1 August 2013 to the date of this Undertaking, from students who were enrolled in the relevant period, or persons acting on behalf of such enrolled students, which relate to representations made or conduct engaged in regarding enrolment in a Careers Australia course. For each such complaint, Careers Australia must:

- (a) acting reasonably and in good faith, identify any enrolments that occurred in circumstances where the person that enrolled the consumer provided false or misleading information in order to encourage enrolment in a Careers Australia course, or negotiated an unsolicited consumer agreement without satisfying the requirements under the relevant provisions of the ACL;
- (b) undertake further investigation into these enrolments as may be reasonably appropriate having regard to the particulars of the case in order to determine whether any of the circumstances set out in sub-paragraph 29(a) above apply; and

- (c) if the findings of the review and/or investigation show that the enrolment occurred in any of the circumstances set out in sub-paragraph 29(a) above, undertake the actions equivalent to those outlined in sub-paragraphs 26(d) and 26(e).

Careers Australia Website Notice

- (30) Careers Australia undertakes that within 21 days of the date of this Undertaking coming into effect, Careers Australia will publish, or cause to be published, on the website located at the URL www.careersaustralia.edu.au or at such other website as may be agreed by the ACCC in writing (**Website**), the notice set out in **Annexure A** to this undertaking (**Notice**) such that:
 - (a) the Notice shall be viewable by clicking a 'click-through' icon located on the homepage of the Website (**Webpage**);
 - (b) the 'click-through' icon referred to in sub-paragraph (30)(a) above is located prominently on the Webpage and is not obscured, blocked or interfered with by any operation of the Website;
 - (c) the 'click-through' icon shall have the following specifications – “CLICK HERE”: located on the header bar at the top of the specified Website;
 - (i) Once the user hovers over the “CLICK HERE” button the words “IMPORTANT NOTICE TO CAREERS AUSTRALIA STUDENTS” in uppercase 18 point, bold, black sans serif font on a white background, centred and in a bordered box;
 - (ii) have the words “Click here for more information” in 14 point, black sans serif font on a white background, centred below the words “IMPORTANT NOTICE TO CAREERS AUSTRALIA STUDENTS” and in the same bordered box;
 - (iii) the bordered box and its contents, including the white space, is to operate in the form of a one-click hyper-link to the said notice; and
 - (iv) the border will be black;
 - (d) the Notice shall occupy the entire webpage that is accessed via the 'click-through' icon referred to above;
 - (e) the Notice shall have the following specifications:
 - (i) the heading of the Notice is to be in font that is no less than 12 point bold black sans serif font on white background;

- (ii) the body of text of the Notice is to be in font that is no less than 12 point size black sans serif font on white background; and
- (iii) the border and text of the Notice will be black;
- (iv) the Notice will be displayed on a stand-alone webpage that is coded in standard 'HTML' format;
- (v) the Notice will not be displayed as a 'pop-up' or 'pop-under' window;
- (vi) neither the Website or any of the webpages that are accessed via the 'click-through' icon referred to above shall have in place any mechanism which would preclude search engines from:
 - A. indexing the page; or
 - B. scanning the page for links to follow; and
- (f) the Notice shall remain on the Website for a period of 60 continuous days from the date it is first accessible on the Website.

Careers Australia Campus Notice

- (31) Careers Australia undertakes that, within 14 days of the date of this Undertaking coming into effect, it will, at its own expense:
- (a) publish or cause to be published a corrective notice in the form and terms of **Annexure A** to this order (**Campus Notice**) and ensure that such Campus Notice:
 - (i) is laminated and not less than A3 in size; and
 - (ii) is in colour and has a bold type heading in at least 36 point type and the body of the notice is in a type not less than 20 points; and
 - (b) display the Campus Notice at its campuses identified in Annexure B (and wherever else it has a campus) in a prominent position at all times that the campus is in operation; and
 - (c) display the Campus Notice in accordance with this Undertaking for a period of 3 months from the date of this Undertaking coming into effect.

Consumer Law Compliance Program

(32) Careers Australia undertakes, at its own expense, to:

- (a) within six months of the date of this Undertaking coming into effect, establish and implement an Australian Consumer Law Compliance Program (**Compliance Program**) in accordance with the requirements set out in **Annexure C**, being a program designed to minimise Careers Australia's risk of future contraventions of sections 18, 21, 29 and 34, and Part 3.2, Division 2 (unsolicited consumer agreements) of the ACL;
- (b) maintain and continue to implement the Compliance Program for a period of five years from the date of this Undertaking coming into effect; and
- (c) provide a copy of any documents required by the ACCC in accordance with **Annexure C**.

Information

(33) For the purpose of confirming compliance with this Undertaking, the ACCC may make reasonable inquiries of Careers Australia in respect of its compliance with this Undertaking, including without limitation, to produce information and documents. Careers Australia undertakes that it will respond in a timely manner to any such inquiry, including without limitation, by production of the requested information and documents.

Acknowledgments

(34) Careers Australia acknowledges that:

- (a) the ACCC will make this Undertaking publicly available including by publishing it on the ACCC's public register of section 87B undertakings on its website;
- (b) the ACCC may, from time to time, make public reference to the Undertaking including in news media statements and in ACCC publications; and
- (c) this Undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

Executed by

Careers Australia Group Limited (ACN 122 171 840) pursuant to section 127(1) of the *Corporations Act 2001* by:

Patrick McKenry

Signature of director

Walter Grunoe

Signature of a director/company secretary

Patrick McKenry

Name of director

WALTER GRUNOE

Name of a director/company secretary

13th May 2016

Date

13th May 2016

Date

Accepted by the Australian Competition and Consumer Commission pursuant to section 87B of the *Competition and Consumer Act 2010*

RGSims

Rodney Graham Sims
Chairman

This *16th* day of May 2016

ANNEXURE A

IMPORTANT NOTICE TO CAREERS AUSTRALIA STUDENTS

Careers Australia has admitted that we have broken the law in the way we enrolled some students into our courses. We have worked with the ACCC to fix the problems.

This may affect you if you were:

- **enrolled in a Careers Australia VET FEE-HELP course between 1 August 2013 and 31 March 2015**
- **misled about the course or did not understand what you were signing up to**
- **enrolled into a course at your home, or over the phone, or at a place that was not a Careers Australia office**

If you think this applies to you, you might have a VET FEE-HELP debt from that course. If you would like to have that debt cancelled, you have until [appropriate date pursuant to the Undertaking to be inserted] to inform Careers Australia to make a claim. We will then assess your claim and let you know if your enrolment and VET FEE-HELP debt can be cancelled.

Please see below for more details about the conduct.

Careers Australia Group Limited (**Careers Australia**) has voluntarily provided a court-enforceable undertaking under section 87B of the *Competition and Consumer Act 2010* to the Australian Competition and Consumer Commission (**ACCC**) in which it has admitted that by virtue of certain representations made by, and conduct engaged in by, certain third party marketing agents (**marketing agents**) on behalf of Careers Australia, it has contravened certain provisions of the Australian Consumer Law.

Careers Australia has provided the undertaking to address the ACCC's concerns that between 1 August 2013 and 31 March 2015, Careers Australia has, by virtue of the conduct of certain marketing agents:

- (a) engaged in misleading or deceptive conduct and made false or misleading representations to certain consumers by falsely representing that VET FEE-HELP courses offered by Careers Australia:
 - were free;
 - were wholly funded or paid for by the government; and
 - would improve the consumer's prospects of finding employment to an extent that could not be reasonably predicted.

(b) engaged in unconscionable conduct, with respect to some consumers, by:

- pressuring certain consumers into enrolling in courses that were not suitable for their education levels and personal backgrounds;
- appearing to target disadvantaged and vulnerable consumers, including jobseekers, Aboriginal consumers in rural areas and those with low levels of literacy and numeracy skills; and
- failing to adequately explain the nature of the debt incurred by consumers when enrolling in Careers Australia VET FEE-HELP courses.

(c) entered into unsolicited consumer agreements with some consumers without disclosing certain information required for such agreements, such as the consumer's right to terminate the agreement within a cooling off period.

Careers Australia acknowledges that by virtue of the conduct engaged in by certain marketing agents on behalf of Careers Australia, it has contravened sections 18, 21, 29(1)(g), 29(1)(i), 34, 74, 76 and 78 of the Australian Consumer Law.

Careers Australia has undertaken not to engage in this type of conduct in the future and will provide redress for affected consumers through a Consumer Redress Program. If you believe you were enrolled into a Careers Australia VET FEE-HELP course under the circumstances described in this notice, please contact complaints@careersaustralia.edu.au by [appropriate date pursuant to the Undertaking to be inserted].

Careers Australia takes its compliance obligations seriously and has therefore worked cooperatively with the ACCC to understand and resolve its concerns, including by resolving issues with its students and providing a court enforceable undertaking.

Careers Australia has also agreed to implement a Compliance Program to ensure this conduct does not occur again and to ensure future compliance with provisions of the Australian Consumer Law.

The full undertaking from Careers Australia is available at www.accc.gov.au.

If you have any questions, please contact Careers Australia on 1300795304 or at Steven.Platz@careersaustralia.edu.au.

ANNEXURE B

Queensland

Training Centre	Address	Contact	
Bowen Hills	18 Thompson Street Bowen Hills Q 4006 PO Box 3212 FORTITUDE VALLEY Q 4006	Phone: Fax	(07) 3620 0700 1300 775 097
Brisbane	123 Gotha Street Fortitude Valley Q 4006	Phone: Fax	(07) 3620 0300 1300 887 696
Caboolture	13 Haskings Street Caboolture Q 4510	Phone:	(07) 5433 7600
Southport	Level 4, Australia Fair Shopping Centre 42 Marine Parade Southport Q 4215 PO Box 3712 AUSTRALIA FAIR Q 4215	Phone: Fax	(07) 5561 3338 (07) 5561 3334
Salisbury	Shed 2, Classroom 2 460-492 Beaudesert Road, Salisbury Q 4107 PO Box 464, Salisbury Q 4107	Phone: Fax	(07) 3216 6478 (07) 3216 6529
Gold Coast	2 Palings Court Nerang Q 4211 PO Box 463 Nerang Q 4211	Phone: Fax	(07) 5561 3318 (07) 5561 3334
Townsville	Lot 5, 602 Ingham Rd Bohle Q 4818 PO Box 7209 Garbutt Q 4814	Phone: Fax	(07) 4771 0700 (07) 4728 3644
Burleigh Kings Unitech	6 Ern Harley Drive Burleigh Q 4220 PO Box 2463 Burleigh Q 4220	Phone:	(07) 5593 4386
Brookes Street	100 Brookes Street Fortitude Valley Q 4006	Phone:	(07) 3020 8500

Victoria

Training Centre	Address	Contact	
Melbourne	196 Flinders Street Melbourne VIC 3000 PO Box 468 Flinders Lane VIC 8009	Phone: Fax	(03) 9633 7400 1300 436 605

South Australia

Training Centre	Address	Contact	
Adelaide	Level 1, 22 Pulteney Street Adelaide SA 5000 PO Box 346 Rundle Mall SA 5000 Phone - (08) 8229 2000	Phone: Fax	(08) 8229 2000 (08) 8229 2099
Hindmarsh	Lot 3, 7-13 Ridley Street Hindmarsh SA 5007 PO Box 570 Hindmarsh SA 5007	Phone: Fax	(08) 8241 6600 (08) 8241 5452

Western Australia

Training Centre	Address	Contact	
Perth	154 Abernathy Road Belmont WA 6104	Phone: Fax	(08) 9262 9500 (08) 9277 7341

New South Wales

Training Centre	Address	Contact	
Sydney	815 George Street Sydney NSW 2000 PO Box K132 Haymarket NSW 1240	Phone: Fax	(02) 9336 5500
Newcastle	4 Frost Drive Mayfield West NSW 2304 PO Box 5 Carrington NSW 2294	Phone: Fax	(02) 4967 9200
Parramatta	Level 1, 25-35 George Street Parramatta NSW 2150	Phone: Fax	(02) 8833 8000

ANNEXURE C

REQUIREMENTS FOR AUSTRALIAN CONSUMER LAW COMPLIANCE PROGRAM

Careers Australia Group Limited (ACN 122 171 840) (**Careers Australia**) will establish an Australian Consumer Law Consumer Compliance Program (**Compliance Program**) that complies with each of the following requirements:

Appointments

1. Within one month of this Undertaking coming into effect, Careers Australia will appoint a director or a senior manager of the business to be responsible for the development, implementation and maintenance of the Compliance Program (**the Compliance Officer**).

Compliance Officer Training

2. Within two months of the Undertaking coming into effect, Careers Australia will ensure that the Compliance Officer attends practical training focusing on sections 18, 21, 29 and 34, and Part 3.2, Division 2 of the Australian Consumer Law (**ACL**).
3. Careers Australia will ensure that the training is administered by a suitably qualified compliance professional or legal practitioner with expertise in competition and consumer law.

Staff Training

4. Careers Australia will cause all employees of Careers Australia whose duties could result in them being concerned with conduct that may contravene sections 18, 21, 29 and 34, and Part 3.2, Division 2 of the ACL to receive regular (at least once a year) training administered by the Compliance Officer (once trained) or a qualified compliance professional or legal practitioner with expertise in competition and consumer law, that focuses on sections 18, 21, 29 and 34, and Part 3.2, Division 2 of the CCA.

Complaints handling

5. Within two months of the Undertaking coming into effect, Careers Australia will develop procedures for recording, storing and responding to ACL related complaints (**Complaints Handling System**).

Reports to Directors

6. Careers Australia will ensure that the Compliance Officer reports to Careers Australia's director every six months on the continuing effectiveness of the Compliance Program.

Compliance Review

7. Careers Australia will, at its own expense, for a period of three years cause an annual review of the Compliance Program (**the Review**) to be carried out in accordance with each of the following requirements:

- 7.1. **Scope of Review** – the Review should be broad and rigorous enough to provide Careers Australia and the ACCC with:

- 7.1.1. verification that Careers Australia has in place a Compliance Program that complies with the requirements of the Undertaking and is suitable for the size and structure of Careers Australia;
- 7.1.2. the Compliance Reports detailed at paragraph 9 below.
- 7.2. **Independent Reviewer** – Careers Australia will ensure that each Review is carried out by an independent reviewer (**the Reviewer**). The Reviewer will qualify as independent on the basis that he or she:
 - 7.2.1. did not design or implement the Compliance Program;
 - 7.2.2. is not a present or past staff member or director of Careers Australia;
 - 7.2.3. has not acted and does not act for, and does not consult and has not consulted to, Careers Australia in any competition or consumer law related matters, other than performing Reviews under this Undertaking, and
 - 7.2.4. has no significant shareholding or other interests in Careers Australia.
- 7.3. **Evidence** – Careers Australia will use its best endeavours to ensure that each Review is conducted on the basis that the Reviewer has access to all relevant sources of information in Careers Australia's possession or control, including without limitation:
 - 7.3.1. the ability to make enquiries of any officers, employees, representatives, and agents of Careers Australia;
 - 7.3.2. documents relating to Careers Australia's Compliance Program, including documents relevant to Careers Australia's Complaints Handling System and Staff Training;
 - 7.3.3. any reports made by the Compliance Officer to Careers Australia's director regarding Careers Australia's Compliance Program.
- 7.4. Careers Australia will ensure that a Review is completed within one year of this Undertaking coming into effect and that a subsequent review is completed within each year for three years.

Compliance Reports

- 8. Careers Australia will use its best endeavours to ensure that within 30 days of a Review, the Reviewer includes the following findings of the Review in a report to Careers Australia (**the Compliance Report**):
 - 8.1. whether the Compliance Program of Careers Australia includes all the elements detailed in paragraphs 1-6 above, and if not, what elements need to be included or further developed;
 - 8.2. whether the Staff Training is effective, and if not, what aspects need to be further developed;
 - 8.3. whether Careers Australia's Complaints Handling System is effective, and if not, what aspects need to be further developed;
 - 8.4. whether there are any material deficiencies in Careers Australia's Compliance Program, or whether there are or have been instances of material non-compliance

with the Compliance Program (**Material Failure**), and if so, recommendations for rectifying the Material Failure/s¹.

Careers Australia's Response to Compliance Reports

9. Careers Australia will ensure that the Compliance Officer, within 14 days of receiving the Compliance Report:
 - 9.1. provides the Compliance Report to the director of Careers Australia;
 - 9.2. where a Material Failure has been identified by the Reviewer in the Compliance Report, provides a report to Careers Australia's director identifying how Careers Australia can implement any recommendations made by the Reviewer in the Compliance Report to rectify the Material Failure.
10. Careers Australia will use reasonable endeavours to implement promptly and with due diligence any recommendations made by the Reviewer in the Compliance Report to address a Material Failure.

Reporting Material Failures to the ACCC

11. Where a Material Failure has been identified by the Reviewer in the Compliance Report, Careers Australia will:
 - 11.1. provide a copy of that Compliance Report to the ACCC within 30 days of Careers Australia's director receiving the Compliance Report; and
 - 11.2. inform the ACCC of any steps that have been taken to implement the recommendations made by the Reviewer in the Compliance Report; or
 - 11.3. otherwise outline the steps Careers Australia proposes to take to implement the recommendations and will then inform the ACCC once those steps have been implemented.

Provision of Compliance Program documents to the ACCC

12. Careers Australia will maintain a record of and store all documents relating to and constituting the Compliance Program for a period not less than three years.
13. If requested by the ACCC during the period of three years, Careers Australia will, at its own expense, cause to be produced and provided to the ACCC copies of all documents constituting the Compliance Program, including:
 - 13.1. an outline of the Complaints Handling System;
 - 13.2. Staff Training materials;
 - 13.3. all Compliance Reports that have been completed at the time of the request;
 - 13.4. copies of the reports to the governing body referred to in paragraphs 7 and 10.

¹ Material Failure means a failure, that is non-trivial and which is ongoing or continued for a significant period of time, to:

- Incorporate a requirement of the Undertaking in the design of the Compliance Program, for example if a Complaints Handling System did not provide any mechanism for responding to complaints; or
- Comply with a fundamental obligation in the implementation of the Compliance Program, for example, if no Staff Training has been conducted within the Annual Review period

ACCC Recommendations

Careers Australia will use reasonable endeavours to implement promptly and with due diligence any recommendations that the ACCC may make that the ACCC deems reasonably necessary to ensure that Careers Australia maintains and continues to implement the Compliance Program in accordance with the requirements of this Undertaking.